IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

MFA.No. 1199 of 2000()

OPMV.1766/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ATTINGAL

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APPELLANT:

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1. G.APPUKUTTAN, S/O.LATE GOPALAN,
REJANI VILAS (PALLIVILA VEEDU),
CHERUVACKAL, SREEKARIYAM P.O.,
THIRUVANANTHAPURAM-17.

2. K.BHAGEERATHY, W/O.G.APPUKUTTAN, DO. DO.

3. T.VALSALA, W/O.LATE ASOKAN,
M.G.COLONEY, ARUVIYODE, VATTAPPARA P.O.,
THIRUVANANTHAPURAM-28.

BY ADV. SRI.B.JAYASURYA

RESPONDENTS:

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1. ABOOTHALIB, S/O.SHAMSUDIN,
VAZHAVILA VEEDU, PERAYAM, UMAYANALLOOR,
THRIKKOVILVATTOM, KOLLAM.

2. FRANCIS RAJ K., S/O.KRISHNAN, THADATHARIKATHU VEEDU,
PULIYAMCODE, MALULIYAZHTHURA, PANTHALAKKODE P.O.,
THIRUVANANTHAPURAM DISTRICT.

3. K.SREEKANTAN, S/O.KESAVAN, HOUSE NO.1/58,
PUTHUVAL PUTHEN VEEDU, PINAKKOTTUKONAM,
KARIYAVATTOM, KARIYAVATTOM P.O., TRIVANDRUM DIST.

4. M/S.ORIENTAL INSURANCE CO. LTD., DIVISIONAL OFFICE,
THAKARAPARAMBU JUNCTION, PAZHAVANGADI,
THIRUVANANTHAPURAM-23.

BY ADV. SRI.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.GEORGE CHERIAN (THIRUVALLA)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 5.11.2007, THE COURT ON 05/11/2007 DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.1199 OF 20O0

Dated this the 5th day of November, 2007

JUDGMENT

Koshy, J.

A 27 year old boy died in a motor accident. His sister and foster parents filed an application for compensation claiming Rs.3,00,000/-. The Tribunal awarded only a total amount of Rs.58,000/-. For loss of dependency, compensation awarded was only Rs.35,000/-. It is contended that mother of the deceased died during the delivery itself and father of the deceased predeceased him much before his accident. It is also come out in evidence that the second appellant, mother's sister of the deceased as well as the first appellant, her husband were looking after the child as a son of them and they are the foster parents. The third respondent is the biological sister of the deceased. The Tribunal found that they are entitled to compensation. That finding has become final. The only dispute is regarding the quantum of compensation. The Tribunal fixed and notional dependency income as Rs.5,000/-. According to the claimant, he was employed as an automobile mechanic and his monthly income was Rs.2,000/- per month. That was not proved.

The accident occurred on 8.10.1995. When the second schedule was framed in 1994, notional income of non-earning person was fixed as Rs.15,000/- per year and loss of dependency is Rs.10,000/- per year even for a non earning person including a minor. Here, the deceased was a 27 year old youngster. Therefore, Rs.10,000/- ought to have been fixed as loss of dependency. Considering the age of the appellants, sister of the deceased etc., the Tribunal has fixed 7 as the multiplier. We see no reason to interfere with the multiplier fixed by the Tribunal. Therefore, the claimants will be entitled to total dependency compensation of Rs.70,000/-, instead of Rs.35,000/- fixed by the Tribunal. We are of the opinion that just and reasonable compensation was awarded by the Tribunal. Therefore, additional amount of Rs.35,000/- should be deposited by the fourth respondent Insurance Company with 7.5% interest from the date of application till the date of deposit over and above the decreed amount by the Tribunal. On deposit of the above amount, the same can be disbursed to the appellants at the proportion fixed by the Tribunal.

The appeal is allowed, partly.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.1199 OF 2000

JUDGMENT

5.11.2007